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IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF MASSACHUSETTS

CYTOLOGIX CORPORATION

Plaintiff,

v.

VENTANA MEDICAL SYSTEMS, INC.

Defendant.

CIVIL ACTION
 NO. 3223

01-10178 REK

COMPLAINT AND JURY DEMAND

Now comes plaintiff CytoLogix Corporation and for its
 Complaint alleges as follows:

The Parties

1. Plaintiff CytoLogix Corporation ("CytoLogix") is
 a corporation organized and existing under the laws of the
 Commonwealth of Massachusetts with a principal place of business
 in Cambridge, Massachusetts.

2. Defendant Ventana Medical Systems, Inc.
 ("Ventana") is a corporation organized and existing under the
 laws of the State of Delaware with a principal place of business
 in Tucson, Arizona. Pursuant to the provisions of Mass. Gen.
 Laws. c. 223A §3, Ventana is subject to personal jurisdiction in
 this District.

DOCKETED

①

Jurisdiction and Venue

3. Jurisdiction of this Court is founded upon 28 U.S.C. § 1338(a), as this action arises under the patent laws of the United States; upon 28 U.S.C. § 1331, as this action arises under the laws of the United States; and upon 28 U.S.C. §1332 in that the parties are citizens of different states and the matter in controversy, exclusive of interest and costs, exceeds the sum or value of \$75,000.

4. Plaintiff is informed and believes, and therefore avers, that there is venue pursuant to 28 U.S.C. § 1391, as defendant "resides" in this judicial district within the meaning of 28 U.S.C. §1391(c).

Count I - Infringement of '061 Patent

5. CytoLogix incorporates and repeats the allegations of paragraphs 1 through 4, inclusive, as if set forth in full herein.

6. United States Letters Patent No. 6,180,061, entitled "Moving Platform Slide Stainer With Heating Elements" ("'061 patent"), was duly and legally issued by the United States Patent and Trademark Office on January 30, 2001, on an application filed by Steven A. Bogen and Herbert H. Loeffler and assigned to plaintiff CytoLogix.

7. The '061 patent is for a device that automates certain staining procedures performed by pathology laboratories in hospitals and elsewhere.

8. CytoLogix markets automated staining devices, which practice the invention of the '061 patent.

9. CytoLogix is informed and believes, and therefore avers, that Ventana has manufactured, used, sold, and/or offered for sale in the United States, and continues to manufacture, use, sell, and/or offer for sale in the United States, automated staining devices that infringe the '061 patent, including, but not limited to, the Benchmark and the Discovery Instruments. The infringing devices incorporate CytoLogix' patented slide heating technology.

10. CytoLogix is informed and believes, and therefore avers, that Ventana will continue infringing the '061 patent unless enjoined therefrom by this Court.

11. CytoLogix is informed and believes, and therefore avers, that Ventana "developed" its automated staining devices, including, but not limited to, the Benchmark and the Discovery Instruments, by copying technology disclosed in one or more confidential Business Plans which it misappropriated from Cytologix.

12. CytoLogix is informed and believes, and therefore avers, that Ventana knew, or had reason to know, that CytoLogix

intended to seek patent protection for the technology disclosed in said confidential Business Plan or Plans and copied by Ventana.

13. Cytologix is informed and believes, and therefore avers, that Ventana's infringement is, and will continue to be, willful, wanton and deliberate.

14. As a result of the foregoing action of Ventana, CytoLogix has and will suffer actual damage and loss in its trade and business, said damage and loss are ongoing and continuing, and CytoLogix is suffering, and will continue to suffer, permanent and irreparable injury and has no plain and adequate remedy at law.

15. Wherefore, CytoLogix is entitled to recover its damages, including enhanced damages, pursuant to 35 U.S.C. § 284, and its attorney's fees, pursuant to 35 U.S.C. § 285, and to an injunction restraining Ventana from any further infringement of the '061 patent.

WHEREFORE, plaintiff prays that this Court:

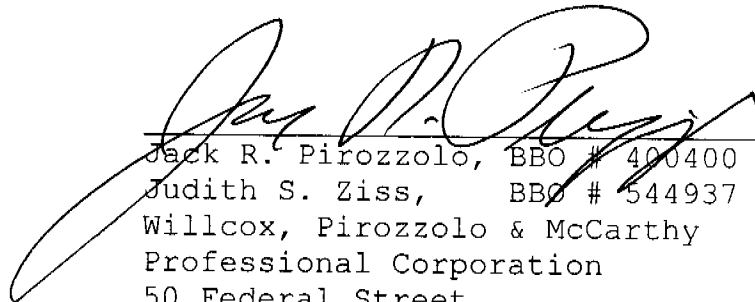
1. enter a permanent injunction restraining defendant and its agents, servants, employees, attorneys, successors, assigns and consignees, and all those acting under their authority or in privity with them from making, using, selling or

- offering for sale any product that infringes
United States Letters Patent No. 6,180,061;
2. award plaintiff its damages, plus interest and costs;
 3. award plaintiff treble damages, pursuant to 35 U.S.C. § 284;
 4. award plaintiff attorney's fees, pursuant to 35 U.S.C. § 285; and
 5. grant plaintiff such other and further relief as this Court deems just and proper.

JURY DEMAND

PLAINTIFF CLAIMS TRIAL BY JURY

By its attorneys,



Jack R. Pirozzolo, BBO # 400400
Judith S. Ziss, BBO # 544937
Willcox, Pirozzolo & McCarthy
Professional Corporation
50 Federal Street
Boston, Massachusetts 02110
(617) 482-5470

50016

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

CytoLogix Corporation

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Middlesex
(EXCEPT IN U.S. PLAINTIFF CASES)**(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)**
Jack R. Pirozzolo
Willcox, Pirozzolo & McCarthy, P.C.
50 Federal Street
Boston, MA 02110
617-482-5470**DEFENDANTS**

Ventana Medical Systems, Inc.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVEDATTORNEYS (IF KNOWN)
Brian L. Michaelis
Brown, Rudnick, Freed & Gesmer, P.C.
One Financial Center
Boston, MA 02111**II. BASIS OF JURISDICTION**

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY:

Patent infringement in violation of 35 U.S.C. 271

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify) _____
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$ _____

Check YES only if demanded in complaint:

JURY DEMAND: ☒ YES ☐ NO**VIII. RELATED CASE(S) IF ANY** (See instructions):JUDGE KeetonDOCKET NUMBER 00CV12231REK

DATE

SIGNATURE OF ATTORNEY OF RECORD

UNITED STATES DISTRICT COURT

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) _____
CytoLogix Corporation v. Ventana Medical Systems, Inc.

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

___ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.

X II. 195, 368, 400, 440, 441-444, 540, 550, 625, 710, 720, 730,
740, 790, 791, 820, 830, 840, 850, 890, 892-894, 895, 950.

___ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 300, 310,
315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371,
380, 385, 450, 891.

___ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660,
690, 810, 861-865, 870, 871, 875, 900.

___ V. 150, 152, 153.

01-10178 REK

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(E)).

CytoLogix Corporation v. Ventana Medical Systems, Inc.
(Civil Action No. 00cv12231REK)

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?
No

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? No

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY? (SEE 28 USC 2403) _____

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC 2284? No

7. DO ALL PARTIES IN THIS ACTION RESIDE IN THE CENTRAL SECTION OF THE DISTRICT OF MASSACHUSETTS (WORCESTER COUNTY) - (SEE LOCAL RULE 40.1(C)). YES No OR IN THE WESTERN SECTION (BERKSHIRE FRANKLIN, HAMPDEN OR HAMPSHIRE COUNTIES)? - (SEE LOCAL RULE 40.1(D)). YES No

8. DO ALL OF THE PARTIES RESIDING IN MASSACHUSETTS RESIDE IN THE CENTRAL AND/OR WESTERN SECTIONS OF THE DISTRICT? YES No (a) IF YES, IN WHICH SECTION DO THE PLAINTIFF RESIDE? _____

9. IN WHICH SECTION DO THE ONLY PARTIES RESIDING IN MASSACHUSETTS RESIDE? Eastern

10. IF ANY OF THE PARTIES ARE THE UNITED STATES, COMMONWEALTH OF MASSACHUSETTS, OR ANY GOVERNMENT AGENCY OF THE U.S.A. OR THE COMMONWEALTH, DO ALL OTHER PARTIES RESIDE IN THE CENTRAL SECTION N/A OR WESTERN SECTION N/A

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Jack R. Pirozzolo, Willcox, Pirozzolo & McCarthy

ADDRESS 50 Federal Street, Boston, MA 02110

TELEPHONE NO. 617-482-5470

(Category.frm - 09/92)